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RICHARD H. WIEKING  
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NORTHERN DISTRICT OF CALIFORNIA

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UMG RECORDINGS, INC.; CAPITOL  
RECORDS, INC.; BMG MUSIC;  
ATLANTIC RECORDING  
CORPORATION; ELEKTRA  
ENTERTAINMENT GROUP INC.; SONY  
BMG MUSIC ENTERTAINMENT; and  
INTERSCOPE RECORDS

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

C 07 4852

UMG RECORDINGS, INC., a Delaware  
corporation; CAPITOL RECORDS, INC., a  
Delaware corporation; BMG MUSIC, a New  
York general partnership; ATLANTIC  
RECORDING CORPORATION, a Delaware  
corporation; ELEKTRA ENTERTAINMENT  
GROUP INC., a Delaware corporation; SONY  
BMG MUSIC ENTERTAINMENT, a Delaware  
general partnership; and INTERSCOPE  
RECORDS, a California general partnership,

Plaintiffs,

v.

JOHN DOE #3,

Defendant.

CASE NO. \_\_\_\_\_

**EX PARTE APPLICATION FOR LEAVE  
TO TAKE IMMEDIATE DISCOVERY**

**VRW**

Ex Parte Application

Case No. \_\_\_\_\_

#32451 v1

1 Plaintiffs, through their undersigned counsel, pursuant to Federal Rules of Civil Procedure 26  
2 and 45, the Declaration of Carlos Linares, and the authorities cited in the supporting Memorandum  
3 of Law, hereby apply *ex parte* for an Order permitting Plaintiffs to take immediate discovery.

4 In support thereof, Plaintiffs represent as follows:

5 1. Plaintiffs, record companies who own the copyrights in the most popular sound  
6 recordings in the United States, seek leave of the Court to serve limited, immediate discovery on a  
7 third party Internet Service Provider ("ISP") to determine the true identity of Defendant John Doe  
8 # 3 ("Defendant"), who is being sued for direct copyright infringement.

9 2. As alleged in the complaint, Defendant, without authorization, used an online media  
10 distribution system to download Plaintiffs' copyrighted works and/or distribute copyrighted works to  
11 the public. Although Plaintiffs do not know the true name of Defendant, Plaintiffs have identified  
12 Defendant by a unique Internet Protocol ("IP") address assigned to Defendant on the date and time  
13 of Defendant's infringing activity.

14 3. Plaintiffs intend to serve a Rule 45 subpoena on the ISP seeking documents that  
15 identify Defendant's true name, current (and permanent) address and telephone number, e-mail  
16 address, and Media Access Control ("MAC") address. Without this information, Plaintiffs cannot  
17 identify Defendant or pursue their lawsuit to protect their copyrighted works from repeated  
18 infringement.

19 4. Good cause exists to allow Plaintiffs to conduct this limited discovery in advance of a  
20 Rule 26(f) conference where there are no known defendants with whom to confer.

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1 WHEREFORE, Plaintiffs apply *ex parte* for an Order permitting Plaintiffs to conduct the  
2 foregoing requested discovery immediately.

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4 Dated: September 20, 2007

HOLME ROBERTS & OWEN LLP

5  
6 By: 

MATTHEW FRANKLIN JAKSA  
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UMG RECORDINGS, INC.; CAPITOL  
RECORDS, INC.; BMG MUSIC;  
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